THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.22409 of 2006

Between:

Omprakash Bhageriya.

.. PETITIONER

and

The Secretary,
Home Department and three others.

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RESPONDENTS

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ORDER:

The petitioner seeks to issue a Writ of Mandamus directing the 3rd respondent to investigate the case and submit report in Cr.No.215 of 2004, dated 21-07-2004 of Nallakunta Police Station, Hyderabad, for the offences punishable under Sections 420 and 468 IPC registered against the 4th respondent.

After submitting counter affidavit by the 3rd respondent, this Court passed an order, dated 17-11-2006, stating that pursuant to the private complaint filed by the petitioner against the 4th respondent, the case was referred by the VI Metropolitan Magistrate at Nampally, Hyderabad, under Section 156(3) of Cr.P.C. to the 3rd respondent. Based on which, a case in Cr.No.215 of 2004 was registered and obtained permission from the Assistant Commissioner of Police on 30-01-2005 to file a final report referring the case as 'civil in nature'. The final report was prepared on 30-04-2005, but the same could not be filed before the concerned and ultimately it was filed only on 09-11-2006 and a notice was issued to the petitioner on 09-11-2006 calling for objections, if any. This Court entertained a doubt as to whether the final report can be filed after service of notice on the complainant, as the code of criminal procedure obligates the police to investigate every complaint as to the commission of a cognizable offence with utmost expedition and to file the report into the court. Any unwarranted and explicable delay in even filing of the final report into the court, constitute an abdication of statutory responsibility.

A counter has been filed stating that the Commissioner of Police, Hyderabad, conducted administrative enquiry into the matter, pursuant to the directions of this court and came to the conclusion that as per the order of this court the police are making efforts to serve notice on the complainant and to file final report into the court, but the petitioner

avoiding to receive the notice and, therefore, the administrative instructions are issued to the following effect:-

> "1. Investigating Officer shall take simultaneous action to file Final Reports in the Court and serve notices to the complainants and these actions should be independent and not interdependent on each other.
>
> 2. The procedure to be followed for service of notices will be in consonance with provision contained in Sections 62 to 69 of Cr.P.C. in letter and spirit.
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> 3. The Final Reports may be filed by the Station House Officer before the Magistrate on Bench in open court to avoid any possible excuse on the part of investigating officers about non acceptance of the final report by the magistrates and get written endorsement for refusal if any for record."

In view of the aforesaid instructions issued by the Commissioner of Police, I am of the opinion that no further orders need be passed in this writ petition as in the instant case, final report has already been filed on 09-11-2006 before the VI Metropolitan Magistrate at Nampally and a notice, dated 09-11-2006, sent to the complainant was refused by him on 11-11-2006.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

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12-06-2007

Prv